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MESSAGE.

DUFFERIN.

The Governor General transmits for the information of the Senate and House of Commons, the accompanying papers relative to the issue of a Commission to inquire into certain charges made against members of Her Majesty's Privy Council for Canada, respecting the grant of a Charter and contract to the Canadian Pacific Railway Company.

Government House,

Ottawa, 22nd October, 1873.

No. 198.

CANADA, Aug. 18, 1873.

MY LORD,—In my previous despatch of the 15th of August, I had the honour of informing your Lordship of the circumstances under which Parliament was prorogued on the 13th.

As a consequence of that event, the Pacific Railway Committee of Enquiry became extinct, and, as I have already mentioned, an interval of eight or ten weeks was to elapse before the re-assembly of Parliament. A question consequently arose as to whether, during this short recess, anything could be done to forward the hitherto abortive inquiry touching the Pacific Railway Charter.

When I was at Prince Edward Island, and in communication with my two Ministers, Messrs. *Tilley* and *Inpper*,—shortly after the publication of the *McMullen* correspondence,—I had intimated to them that, should the Committee of the House of Commons find itself unable to prosecute the investigation, the truth must be got at somehow,—and that perhaps an inquiry conducted before three judges of the land might prove a satisfactory issue out of the difficulty. In making this suggestion I was actuated by a double motive. In the first place, I was deeply distressed at the embarrassing relations which existed between my Ministers and myself. These gentlemen were being assailed by irresponsible newspaper correspondents with accusations of the most injurious description. Documents which, perhaps, in themselves proved nothing, had been brought into an alleged connection with a narrative that invested them with a very sinister signification. The Parliamentary Committee that had undertaken to discover the truth appeared to be paralysed, and the accused were thus shut out from all means of vindicating their characters. Yet it was to these persons I was bound to recur for advice in all matters affecting the administration of public affairs. Again, as an Imperial officer, it was my duty to watch with especial care over Imperial interests. The allegation current against my Ministers and others, was that they had fraudulently dealt with certain monetary trusts, voted indeed by the Parliament of Canada, but guaranteed, to a considerable extent, by the Imperial Government. This being so, I was evidently bound, apart from any action of the Canadian House of Commons, whose powers of scrutiny seemed for the present of small avail, to obtain satisfaction in regard to these matters by any constitutional methods within my reach. Indeed from this point of view it was not the Ministry of the day,—who are but an evanescent Committee of Parliament,—but the Parliament of Canada itself that was responsible to Great Britain in respect of any malversation which might have occurred,—as having confided the disposal of these interests to improper agents.

At the same time, as long as the Parliamentary Committee was in existence, even though it had ceased to act, the resort to any other instrument of investigation was not desirable. Beyond, therefore, the casual suggestion to which I have referred, nothing further was volunteered by me in this sense. When, however, the prorogation of Parliament being decided upon, and the Committee of the House of Commons being about consequently to become extinct, my Government undertook on its own

responsibility to advise the issue of a Commission to three Judges of character, standing, and acknowledged integrity; I had no difficulty in acquiescing in their recommendation.

I have now, therefore, to inform your Lordship that on the 14th of August I signed a Commission at the instance of my responsible advisers, and by virtue of the powers vested in the Governor General by the Canadian Act of the 31 Vic., cap. 38, to the Honourable Judge Day, the Honourable Judge Polette and Judge Gowan, authorizing them to inquire into the various matters connected with the issue of the Pacific Railway Charter. A copy of this Commission I have the honour to append.

On referring to it, your Lordship will observe that the purview of the Commission is very wide and inquisitorial, and that there is nothing to restrict its reception of anything that may appear to deserve the name of evidence. The professional antecedents of these gentlemen are set forth in the accompanying document, which has been prepared for me by my Ministers. Only one of them is personally known to me, viz., Judge Day, who, as Chancellor of the McGill University, received me on my visit to that Institution. Since that we have improved our acquaintance, and I have no hesitation in stating, both from what I know, and have learnt, that I have every confidence in Judge Day's high sense of honour, capacity, and firmness.

I have also considered it my duty to satisfy myself as to the qualifications of the two other gentlemen with whom he is associated, and I am in a position to inform your Lordship that they are generally regarded as persons of unblemished integrity, sound judgment, and professional ability, while the length of time all three have been removed from politics frees them from the suspicion of political partizanship.

Notwithstanding the creditable antecedents of these personages, they have been sharply assailed by the Opposition press, for which the praises of the Ministerial organs is scarcely an adequate consolation. Perhaps, however, it may not be amiss that I should append two or three articles from newspapers bitterly opposed to the Government, who, nevertheless, are compelled to bear a scant and niggard testimony to the high qualities of these gentlemen.

Under ordinary circumstances, I should have thought it sufficient to have terminated my despatch at this point, but as matters now stand, it is necessary that I should describe to your Lordship the chief features of the controversy to which the issue of this Commission has given rise.

The objections urged against it seem to be three in number.

1st. That the present investigation is not of the kind contemplated by the Act.

This point is so entirely a question of legal interpretation that I can only be guided in regard to it by my law officer.

2nd. That the issue of the Commission is an invasion of the privilege of Parliament; that Parliament being seized of the matter, no other authority has a right to concern itself in the investigation.

I apprehend that this view cannot be sustained. The powers with which the Commission is vested being legal, and granted by Parliament without limitation, it is difficult to believe that their exercise can be held an interference with the privileges of Parliament. It is not a criminal suit, but a simple inquiry that has been instituted by the House of Commons at the instance of my Ministers. Moreover, Parliament has ceased to conduct this inquiry. The Crown possesses no absolute guarantee that it will be renewed, or that when renewed, it will be effectual. If Ministers fall on a vote of want of confidence on the address, it might prove the interest of so many persons to let the matter drop, that the Committee may not be re-appointed. Unless conducted under oath, the investigation will certainly prove ineffectual; and I am advised that it is doubtful whether any device exists by which a mere Committee of the House of Commons can be enabled to swear its witnesses. If, therefore, an immediate investigation will promote the "good Government of Canada," to quote the words of the Act, I do not apprehend that Parliament can denounce the Commission as a breach of privilege. The House of Commons may declare the issue of the Commission to be inopportune and unadvisable, and may visit with its

displeasure the Ministers who counselled its appointment; but it can have no *locus standi* as against the Crown itself.

Moreover, it must be remembered that the Commission can in no way intercept or supersede the jurisdiction of the House of Commons. It will be quite competent for Parliament to ignore the fact of its having existed. Its influence on the present situation will entirely depend on the way in which it discharges its functions. If the public is convinced that it has elucidated the truth—no matter with what result—its position will be unassailable—if it fails to do so, it will not require the action of Parliament to proclaim its *déchéance*.

There is yet another way of looking at the matter. Few people will deny that individually I have the right to require an explanation from my Ministers in regard to these transactions. But it is evident that in respect of so complicated a business I have neither the time, nor the knowledge, nor the professional acuteness necessary to unravel the tangled web of incriminatory matter presented to me. If then I possess the legal power, and if by undertaking to answer for the Act, my Ministers endow me with the constitutional power, can Parliament complain if I take advantage of these circumstances to subject my Ministers, through the Commission that represents me, to such an interrogatory as I may deem advisable, or if I order the collection of such other evidence as may be forthcoming, and is calculated to throw light upon the business.

Nor has Mr. *Huntington* himself any grounds to dispute my right to take cognizance of this affair. While the Parliamentary Committee was still in existence, he approached me officially and directly with communications incriminating sworn members of my Privy Council. It is true I returned him the documents he forwarded, and declined to take personal cognizance of a matter then before a Committee of the House of Commons, but I retain his covering letter, and it is scarcely competent for him,—the Committee having ceased to exist,—to decline the jurisdiction of the Commission so far as it is concerned with what he himself brought to my notice. By his own Act he has invited my intervention, and submitted the matter to the direct cognizance of the Crown.

Thirdly. The "personnel" of the Commission is complained of as partial to the Government, and as having been chosen by the accused. Into the personal question I need not enter further than I have done. That the Commissioners should have been named by the Government is an accident inevitable to the anomalous situation of affairs; but when we consider the character and antecedents of these gentlemen, that they sit in open court, that their powers of inquiry are unlimited, that they will act under the eyes of unsparing critics, that any appearance of flinching on their part will only stimulate the desire both in and out of Parliament for further inquiry, and that in such an event a review of the case by the House of Commons is extremely probable, I do not think that any practical objection can be taken to them on this account.

I should have much preferred that Sir *John*'s previous offer to the House of Commons' Committee should have been renewed, for although this Committee cannot be pronounced free from those characteristics which adhere to all Parliamentary Committees on such occasions, it might possibly possess greater vigour of evisceration than a Commission, though its ultimate verdict might not prove unanimous. It would, moreover, have been able to command the appearance of Mr. *Huntington* as a willing prosecutor. That gentleman, as I understand, intends to question the jurisdiction of Judge *Day* and his colleagues. Of course, the Ministerialists asseverate that he fears being brought to book, that having thoroughly prejudiced the public mind through the agency of Mr. *McMullen*'s letters he would willingly let the Government lie as long as possible under the odium of a vague charge which accurate inquiry would dispose of; but this seems a groundless aspersion. Mr. *Huntington* may be, and indeed I trust, and so far believe, is mistaken. He may have "got hold of the wrong end of the stick," and have been too quick in drawing inferences; it may be doubtful if he is well advised in declining to appear, if that should be the determination, but that after all he has said and done he should have misgivings as to his case is not credible, and such an injurious supposition is

unjustifiable. But the difficulties in the way of making a second offer to Messrs. *Blake* and *Dorion* appeared insuperable, for both these gentlemen in declining Sir *John*'s former proposal to make them Commissioners grounded themselves not only on the necessity of obtaining the House's sanction to their change of status, an objection which though somewhat subtle was perhaps sustainable, but furthermore asserted that as Commissioners their independence would be destroyed. Mr. *Blake*, moreover, had stated that on personal grounds he could not consent to act on a Commission appointed under the advice of Sir *John Macdonald*. As there was no reason to suppose that these gentlemen had changed their minds in these respects it did not appear advisable to re-approach them on the subject.

Under these circumstances it was evident,—if the interval that must elapse before the re-assembly of Parliament was to be utilized,—that any inquiry which might be possible, must be committed to fresh hands.

That my Ministers should desire an opportunity of making themselves heard can be well understood. The language used on their behalf is something of this sort. —“For months past we have been the objects of the vilest calumnies. Our most confidential documents have been purloined by an informer, and dishonestly connected with a narrative which is itself untrue. Hitherto we have had no opportunity of rebutting these accusations. The instrument appointed by the House of Commons to do justice between us and our traducers has proved powerless for that object. Considering with whom we have to deal, we require the evidence against us to be substantiated by an oath. We are not willing to place our honour at the mercy of our accusers unless protected against perjury. We ourselves are anxious to be heard upon our oaths. We doubt whether a Committee of the House of Commons can acquire the power of swearing in its witnesses without an Imperial Act. We think it but fair before Parliament re-assembles that we should have an opportunity of answering fully, point by point, the injurious allegations brought against us. This cannot be done by mere statements. We desire therefore to subject ourselves to as searching an interrogatory as a skilled tribunal or our most bitter opponents can apply. Unless we have this opportunity we shall meet Parliament at a disadvantage. Our enemies have possessed themselves of the ear of the public for months. We have had no opportunities of counteracting these influences. Let at least our story be heard before a premature decision is snatched from Parliament, saturated as it may have become with these calumnies. We do not wish to escape from the scrutiny of the House of Commons. We know we could not do so,—did we so desire,—but since its action is for a time suspended, do not condemn us to remain, during the interval, under the opprobrium of such accusations.”

It is not my province to examine the force of this pleading. I merely report it for your Lordship's information; but no one can fail to see that my Ministers are fairly entitled so far as the law allows them, to do whatever in them lies to dissipate the impression occasioned by the enforced silence entailed upon them by the inaction of the late Parliamentary Committee.

I have now concluded my narrative of the two important occurrences in which I have found myself so unexpectedly engaged. My anxieties have been very great, and my position most embarrassing. If I have erred in the conduct of these affairs, I feel I can count upon your Lordship's indulgence to put a favourable construction on my intentions. Trained in the liberal school of politics under the auspices of a great champion of Parliamentary rights, my political instincts would revolt against any undue exercise of the Crown's Prerogative. Yet it is of this I find myself accused. I trust, however, that reflection will dissipate such impressions, and that the people of Canada will ultimately see that it is for their permanent interest, that a Governor General should unflinchingly maintain the principle of Ministerial responsibility, and that it is better he should be too ready in relinquishing this palladium of colonial liberty, than too ready in resorting to acts of personal interference.

Considering how eager has been the controversy, I cannot hope to escape

criticism, but any irritation thus engendered will perhaps be softened by the reflection that coming to this country full of faith in its people and its destinies, I was naturally slow to believe that widespread public and personal corruption should exist among its most eminent public men. If it should turn out that I have been deceived in my estimate of Canadian purity, the error is one which Canada may afford to pardon. If, as I trust will be the case, the integrity of her chief statesmen is vindicated, I shall be well content if the fact of "my not having despaired of the Republic" is forgotten in the general satisfaction such a result will produce.

Be that as it may, there is one circumstance which we can regard with unmitigated satisfaction. The alleged revelations which have taken place have profoundly moved the whole population. Apart from the section of society, "within politics" whose feeling may be stimulated by other considerations, every citizen in the country, no matter how indifferent to public affairs, has been dismayed and humiliated by the thought that such things as are alleged to have taken place by Mr. *McMullen* and Mr. *Huntington* should be possible. This is a reassuring sign, and even should it be found, which God forbid, that the Government has been unworthy of the trust confided to it, the indignation and the searchings of heart that will ensue throughout the land will go far to cleanse the public life of Canada for many a year to come.

I must apologise for the length of this and my previous despatch, but in recording these transactions, I felt that I was contributing to a page of the History of Canada.

I have &c.

(Signed),

DUFFERIN.

The Right Hon. the Earl of Kimberley,
&c., &c., &c.

Enclosure No. 1 in No. 198, August 18th, 1873.

THE ROYAL COMMISSION.

DUFFERIN.

[L.S.]

CANADA.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland
— QUEEN, Defender of the Faith, &c., &c., &c.

To the Honourable *Charles Dewey Day*, of the City of Montreal, in the Province of Quebec, in our Dominion of Canada, late one of the Judges of the Superior Court, in and for Lower Canada; The Honourable *Antoine Polette*, of the City of Three Rivers, in the said Province of Quebec, one of the Judges of the Superior Court, in and for Lower Canada; and *James Robert Gowan*, of the Town of Barrie, in the Province of Ontario, in our said Dominion, Esquire, Judge of the County Court of the County of Simcoe, in the said Province of Ontario, and to all to whom these presents shall come, or whom the same may in any wise concern.

GREETING:

JOHN A. MACDONALD, Attorney-General, Canada.

WHEREAS, the Honourable *Lucius Seth Huntington*, of the City of Montreal, in the Province of Quebec, a member of the Honourable the House of Commons of Canada,

in his place in Parliament, did on the second day of April, in the year of our Lord one thousand eight hundred and seventy-three, move the following resolution:—"That he the said *Lucius Seth Huntington*, is credibly informed, and believes that he can establish by satisfactory evidence that in anticipation of the legislation of last Session, as to the Pacific Railway, an agreement was made between Sir *Hugh Allan*, acting for himself and certain other Canadian promoters, and *G. W. McMullen*, acting for certain United States capitalists, whereby the latter agreed to furnish all the funds necessary for the construction of the contemplated Railway, and to give the former a certain per centage of interest, in consideration of their interest and position, the scheme agreed upon being ostensibly that of a Canadian Company with Sir *Hugh Allan* at its head.

"That the Government were aware that these negotiations were pending between the said parties.

"That subsequently, an understanding was come to between the Government and Sir *Hugh Allan* and Mr. *Abbott*, one of the members of the Honourable the House of Commons of Canada, that Sir *Hugh Allan* and his friends should advance a large sum of money for the purpose of aiding the elections of Ministers and their supporters at the ensuing general election, and that he and his friends should receive the contract for the construction of the railway.

"That accordingly Sir *Hugh Allan* did advance a large sum of money for the purpose mentioned, and at the solicitation and under the pressing instances of Ministers.

"That part of the moneys expended by Sir *Hugh Allan* in connection with the obtaining of the Act of Incorporation and Charter were paid to him by the said United States capitalists under the agreement with him.

"That a Committee of seven members be appointed to enquire into all the circumstances connected with the negotiations for the construction of the Pacific Railway with the legislation of last Session on the subject, and with the granting of the charter to Sir *Hugh Allan* and others, with power to send for persons, papers and records, and with instructions to report in full the evidence taken before, and all proceedings of the said Committee," which said resolution upon a division of the said House, was lost:

AND WHEREAS the Right Honourable Sir *John Alexander Macdonald*, Knight, also a member of the said House of Commons of Canada, in his place in Parliament, did, on the eighth day of April aforesaid, move a resolution in the words following:—"That a Select Committee of five members (of which Committee the mover shall not be one) be appointed by this House to enquire into, and report upon the several matters contained and stated in a resolution moved on Wednesday, the second day of April, instant, by the Honourable Mr. *Huntington*, member for the County of Shefford, relating to the Canadian Pacific Railway, with power to send for persons, papers and records, to report from time to time, and to report the evidence from time to time, and if need be, to sit after the prorogation of Parliament," which said last named resolution was carried:

AND WHEREAS, by an Act of the Parliament of Canada, passed on the third day of May, in the year of our Lord one thousand eight hundred and seventy-three, and in the thirty-sixth year of our reign, intituled "An Act to provide for the examination of witnesses on oath by Committees of the Senate and House of Commons in certain cases;" it is amongst other things in effect enacted, that—

"Whenever any witness or witnesses is or are to be examined by any Committee of the Senate or House of Commons, and the Senate or House of Commons shall have resolved that it is desirable that such witness or witnesses shall be examined upon oath, such witness or witnesses shall be examined upon oath or affirmation, where affirmation is allowed by law."

AND WHEREAS, the Honourable *John Hillyard Cameron*, also a member of the said House of Commons of Canada, in his place in Parliament, did, after the passing of the said above-named Act of Parliament, and on the third day of May aforesaid, move a resolution in the following words:—

"That it be an instruction to the said Select Committee, to whom was referred the

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duty of enquiry into the matters mentioned in the statement of the Honourable Mr. *Huntington* relating to the Canadian Pacific Railway, that the said Committee shall examine the witnesses brought before it upon oath," which was carried :

AND WHEREAS, the said Act of Parliament has since the passing thereof been disallowed by Her Majesty :

AND WHEREAS no power exists whereby the said Committee, so appointed as aforesaid, can legally administer oaths to witnesses brought before it, whereby one of the objects desired by the said the House of Commons cannot be attained :

AND WHEREAS it is in the interests of the good government of Canada, not only that full enquiry should be made into the several matters contained and stated in the said above recited resolutions of the 8th day of April aforesaid, but that the evidence to be taken on such enquiry should be taken on oath in the manner prescribed by the said resolution of the 3rd of May aforesaid, and the Governor in Council has deemed it expedient such inquiry should be made :—

NOW KNOW YE that, under and by virtue, and in pursuance of the Act of the Parliament of Canada, made and passed in the thirty-first year of our reign, intituled "An Act respecting enquiry into Public Matters," and of an order of the Governor in Council, made on the 13th day of August, in the year of our Lord, one thousand eight hundred and seventy-three,—WE, reposing especial trust and confidence in the loyalty and fidelity of you, the said *Charles Dewey Day*, *Antoine Polette*, and *James Robert Gouran*, have commanded and appointed you to be our Commissioners for the purpose of making such enquiry as aforesaid, of whom, you the said *Charles Dewey Day*, shall be Chairman, and we do authorize and require you, as such Commissioners, with all convenient despatch, and by and with all lawful ways and means, to enter upon such enquiry and to collect evidence, and to summon before you any parties or witnesses, and to require them to give evidence on oath, or on solemn affirmation, if they be parties entitled to affirm in civil matters, and to produce such documents and things as you may deem requisite to the full investigation and report of the matters and statements aforesaid.

And we do hereby order and direct that the sittings of you, the said Commissioners under this Our Royal Commission, shall be held at the City of Ottawa, in Our Dominion of Canada.

And we do require you to communicate to Us through Our Secretary of State of Canada, and also to the Honourable the Speaker of the Senate, and to the Honourable the Speaker of the House of Commons of Canada, as well the said evidence, as any opinions which you may think fit to express thereupon. And we do strictly charge and command all our officers and all our faithful subjects, and all others, that in their several places, and according to their respective powers and opportunities they be aiding to you in the execution of this Our Commission.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent, and the Great Seal of Canada to be hereunto affixed. WITNESS, Our Right Trusty and Well Beloved Cousin and Councillor the Right Honourable Sir *Frederic Temple*, Earl of Dufferin, Viscount and Baron *Clandeboyne* of Clandeboyne, in the County Down, in the Peerage of the United Kingdom, Baron *Dufferin* and *Clandeboyne* of Ballyleidy and Killeleagh, in the County Down, in the Peerage of Ireland and a Baronet, Knight of Our Most Illustrious Order of Saint Patrick, and Knight Commander of our Most Honourable Order of the Bath, Governor General of Canada, and Vice-Admiral of the same.

At Our Government House, in Our CITY of OTTAWA, this FOURTEENTH day of AUGUST, in the year of Our Lord, one thousand eight hundred and seventy-three, and in the Thirty-seventh year of Our Reign.

By Command,

J. C. AIRKINS,
Secretary of State.

Enclosure No. 2 in No. 198, August 18, 1873.

(From the "Montreal Herald.")

"THE ROYAL COMMISSION.—We are informed that the Royal Commission, who are appointed to investigate the charges made by Mr. Huntingdon against the Ministry, is to consist of Mr. Justice Day as President, Mr. Justice Polette, of the Superior Court for the District of Three Rivers, and Mr. Justice Gowan, a country Judge, we believe, of Ontario. If this be the case, apart from the outrage of taking out of the hands of the House of Commons, an affair of which that body has taken cognizance, there is nothing in the distinguished character of the men composing the Commission, with the single exception of Mr. Justice Day, which can at all atone for the insult put upon the representatives of the people. Judge Polette is a very respectable member of the Bench. As to Judge Gowan we know nothing."

(From the "Montreal Herald.")

"THE PERSONAL COMPOSITION OF THE ROYAL COMMISSION.—Of the Chairman of the Royal Commission, Mr. Justice Day, we of course speak only in terms of respect. He is a man of great capacity and learning, and he occupies a position which ought to make him independent. We cannot, however, we confess, imagine, by what eccentric freak of judgment he has been induced to take a position, the assumption of which no one better than himself must know to be a direct breach of the privileges of the House of Commons—an assumption which the Commons of England would punish, which has already been condemned by the majority of our own House of Commons in the most formal manner in which they were able to express an opinion, and whose object is merely to enable the leaders of a broken party to shelter themselves from the necessity of appearing before the constitutional tribunal. As to Mr. Gowan, we are also ready to award him the praise of being a highly respectable magistrate, but not one whose distinction, as we before remarked, could lessen the insult offered to Parliament by his employment in this most improper task. There is, however, one circumstance which, if we are rightly informed, makes his appointment exceedingly indecent on a Commission, not like the Parliamentary Committee composed of opposing forces, but of men whose single merit, if merit they have, is their impartiality—this is his well known friendship, amounting almost to affection, for Sir John A. Macdonald. We are sorry to say that we must speak in quite a different manner of the third associate in this Commission, Mr. Justice Polette, &c., &c., &c."

(From "Le Journal de Quebec.")

"La commission royale, suivant le télégraphe, se composerait, du juge en chef Draper, de l'ex-juge Day et du juge Polette.

"M. Draper était appelé 'the-artful Dodger,' et, avec son incontestable habileté, n'eut jamais la confiance, même de son parti.

"Nous n'avons rien à dire, contre MM Day et Polette, et nous avons seulement à regretter qu'ils aient accepté cette commission, qui est un outrage aux droits du parlement."

MEMORANDUM.

For His Excellency The Governor General.

JUDGE DAY,

Was, in 1842 and for some years, Solicitor-General for Lower Canada in a Coalition Government.

In 1849 he was appointed a Judge of the Superior Court of Lower Canada by the Reform Government of *Baldwin* and *Lafontaine*. While on the Bench he exhibited high qualities as a Judge.

In 1856 he was selected by the Government as one peculiarly qualified and appointed Commissioner to revise and consolidate the Statutes relating to Lower Canada. He was engaged at that work about seven years. Feeling a distaste for returning to the Bench after so long an absence, he retired on the statutory provision.

Since his retirement from the Bench he has been very much engaged as an arbitrator—chosen because of his high reputation for judicial and moral qualities.

Shortly after Confederation, Judge *Day* was appointed arbitrator by the Government of Quebec, to act with Senator *Macpherson* and Colonel *Gray*, chosen by the Government of Ontario and the Government of the Dominion respectively, to adjust the relative debts of Quebec and Ontario, arising out of their former union. Judge *Day* is Chancellor of the McGill University.

JUDGE GOWAN,

When at the Bar, was partner in business of the late Hon. *James E. Small*, who was Solicitor-General for Upper Canada, in the Reform Government of 1842, when Mr. *Robert Baldwin* was Attorney-General. Mr. *Small* was considered an extreme Reformer, Mr. *Gowan* a moderate one. They practised Law at Toronto. Mr. *Gowan's* reputation as a lawyer was speedily established and rose high. In 1843, he was appointed Judge of the County Court of the County of Simcoe, by the Reform Government of *Baldwin* and *Lafontaine*. He has held that position ever since, and exhibited therein the best qualities of a Judge, while his charges to the Grand Juries have frequently commanded respectful attention throughout the Province of Ontario.

About the year 1849, Mr. *Gowan* was appointed, by the Governor in Council, a Commissioner, in association with the late Judge *Harrison* (an English barrister), *O'Reilly*, *Campbell* and *Mallock*, for the drawing up and establishing of the rules regulating the procedure of Division Courts in Upper Canada. He was afterwards appointed by the Governor in Council, in association with the present Chancellor *Spragge* and the late Judge *Burns*, of the Court of Queen's Bench, a Commissioner to regulate the practice and procedure in the Surrogate Courts of Upper Canada.

After the passing of the Common Law Procedure Act, in 1856, the Judges of the Superior Courts of Upper Canada were empowered to draw up rules of procedure for the County Courts, and being empowered to associate with them, one County Court Judge for that purpose, they selected Judge *Gowan*.

When the County Court Judges of Ontario held their Convention at Toronto some years ago, to consult about matters connected with the County Courts, with a view to recommending changes, Mr. *Gowan* was unanimously chosen as Chairman, notwithstanding the fact that several of the Judges present were senior to him.

In 1857, the late Sir *James Buchanan Macaulay* having retired from the Chief Justiceship of the Common Pleas in Upper Canada, was asked to accept the appointment of a Commissionership with others, to consolidate the Statutes of Canada and of Upper

Canada; he declined to accept the position unless Judge *Gowan* were associated with him. Mr. *Gowan*, however, declined to accept an appointment, but agreed to assist the Commissioners and did so.

In 1862, disputes having arisen between the Government and the Contractor for the erection of the Parliament Buildings at Ottawa, respecting the work and the contract, a reference was made to arbitration, the Government choosing one of the arbitrators and the Contractor another; these two arbitrators agreed upon Mr. *Gowan* as the third arbitrator, it being provided by the reference that they should select a Judge from Upper Canada for that position.

In 1869, he was associated with Judge *Wilson* of the Court of Queen's Bench, Judge *Gwynne* of the Common Pleas, and the present Vice Chancellor *Strong*, on the Commission appointed by the Government of Ontario, to enquire into and report upon the working of the machinery of the Courts of Law and Equity in Ontario, with power to report a scheme for the fusion of those Courts.

Judge *Gowan* is the Chairman of the Commission of County Court Judges, appointed by the Ontario Government. He has been consulted by each successive Attorney-General for Upper Canada since 1842, on the subject of proposed changes in the Criminal, Municipal and other Laws.

JUDGE POLETTE,

Was, from 1847 to 1858, a member of the Parliament of Old Canada, when he commanded attention and respect. In 1860, he was appointed Judge of the Superior Court of Lower Canada, and in that capacity he appears to have won the unanimous respect of his brother Judges of the bar and of the public. He was recommended to Sir *John A. Macdonald* by Chief Justice *Meredith*, of the Province of Quebec, as a man who is peculiarly fitted by reason of his ability, his integrity, and his thorough independence of character to act on the present Commission.

The Chief Justice was asked to act, but he declined, and recommended Mr. *Folette* in his stead.

MESSAGE.

PAPERS relative to the issue of a Commission to inquire into certain charges made against the members of Her Majesty's Privy Council for Canada, respecting the grant of a Charter and contract to the Canadian Pacific Railway Company.

Ottawa, 23rd October, 1873.

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